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ABSTRACT

This document is an instructional module package prepared in objective form for use by an instructor familiar with the Federal and Iowa Occupational Safety and Health Act (OSHA). Included are objectives, instructor guides, and student handouts. This module includes an overview of OSHA administration, analysis of OSHA standards including recordkeeping requirements, inspections, violations, citations, penalties and right to appeal, and use of the OSHA manual. (Author/RH)

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# O S H A

## Training Module 4.330.3.77

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September, 1977

SE 024 146

SUMMARY



| Module No: | Module Title: Occupational Safety & Health Act of 1970 |
|---|---|
| | Submodule Title:<br>1. Structure of OSHA<br>2. Enforcement of OSHA standards<br>3. OSHA standards |
| Approx. Time: | Topic: Summary |

Objectives:

Upon completion of this module, the participant will be able to:

1. Understand the purpose of the Federal and Iowa OSHA.
2. Understand how rules and standards are promulgated.
3. Organize the workers and the work place so OSHA requirements met.
4. Specifically know how the Secretary enforces the act.
5. Understand the types of violations and penalties, and the right to appeal.
6. Be familiar with some specific OSHA standards and know how to locate other standards in the manual.

Instructional Aids:

Handouts, Transparencies, Hypotheticals

Instructional Approach:

Lecture
Discussion

References:

1. United States Code Annotated.
2. Code of Federal Regulations.
3. Code of Iowa, 1977.
4. Iowa Administrative Code.
5. Handbook for Occupational Safety and Health Standards for Water Utilities, American Water Work Association, Inc., Denver August, 1974.
6. OSHA - Administration's Impact on Small Business, U.S. Dept. of Labor, July, 1976.
7. The Job Safety and Health Act of 1970, Operator's Manual, Bureau of National Affairs, 1971.
8. ABC's of the Job Safety and Health Act, Bureau of National Affairs, 1971.

Class Assignments:

Read handouts
Answer hypothetical problems.

9. Occupational Safety and Health Act, Illinois Institute for Continuing Legal Education, 1974.
10. The Occupational Safety and Health Act: Its Goals and Its Achievements, Smith.
11. How to Make the OSHA - 1970 Work for You, David R. Schowalter, Ann Arbor Science Publishers, Inc., Ann Arbor, Mich., 1976.
12. IOSH, Iowa Occupational Safety and Health Standards for General Industry, Iowa Bureau of Labor, Commercial Clearing House, Inc., Chicago, 1977.
13. Occupational Safety and Health Act of 1970 - Law and Explanation, Commercial Clearing House, Inc., Chicago, 1971.
14. IOSH, Iowa Occupational Safety and Health Standards for Construction, Iowa Bureau of Labor, Commercial Clearing House, Inc., Chicago, 1977.

Instructor Notes:

At the beginning of the module, the instructor should order from the Iowa Bureau of Labor, E. 7th & Court, Des Moines, Iowa, 50319, the following book for each participant:

IOSH
Iowa Occupational Safety and Health Standards for General Industry

Each book costs $1.25

The instructor should inquire into the availability of films to aid in instruction. The following book is a good source for current films in the OSHA area:

National Safety Council Catalog
National Safety Council
444 N. Michigan Avenue
Chicago, Ill. 60611

The film "OSHA, The State and You" is excellent although it was made for general industry. It would be most beneficial to the students if shown towards the end of the class. The film may be obtained from the Iowa Bureau of Labor, E. 7th & Court Avenue, Des Moines, Iowa. Note also the film described in the Instructor Notes under the Record-Keeping Topic.

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Structure of OSHA |
| Approx. Time: 15 minutes | Topic: Administration |

Objectives:

Upon completion of this module, the participant will be able to state the roles of the following persons and entities according to OSHA:

a. Department of Labor
b. Secretary of Labor
c. National Advisory Committee on Occupational Safety and Health
d. Regional Administrator and Area Directors
e. National Institute for Occupational Safety and Health

Instructional Aids:

Handout on OSHA administrators - OH-1.

Transparency on levels of OSHA - OT-1.

Instructional Approach:

Lecture

Discussion

References:

1. Ill. Inst. for CLE, "Occupational Safety and Health Act of 1970," Joseph A. Murphy.
2. Sections 3, 7, 22 of OSHA.

Class Assignments:

Read handout OH-1.

| Module No: | Topic: Administration | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| 1. OT-1<br><br>2. OT-2 | | 1. Discuss the structure of administration of the OSHA using the groups below.<br><br>2. Discuss the duties of the following:<br>a. Secretary of Labor<br>1) Duties - Promulgates, modifies and revokes standards; decides variances; inspects; investigates; enforces the OSHA; issues citations.<br>b. National Advisory Committee on Occupational Safety and Health<br>1) Duties - Advise, consult and make recommendations to the Secretary of Labor and Secretary of Health, Education and Welfare.<br>2) Membership - four members designated by Secretary of Health, Education and Welfare, others are representatives of management, labor, OSHA professions and the public.<br>c. Secretary of Health, Education and Welfare and the National Institute for Occupational Safety and Health.<br>1) Duties of HEW - Collection of records of death, injuries, and illnesses; compile, analyze and publish information from records; conduct research and experiments; conduct education programs. |

| Module No: | Topic: Administration (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| 1d. Find out who are the current regional and area directors. | | 2) Duties of NIOSH - Perform the above duties of HEW, and develop and establish recommended occupational safety and health standards.<br>d. Regional Directors, Area Directors and Compliance Safety and Health Officers and Industrial Hygenists.<br>1) Duties - Enforce OSHA by inspections, tests, investigations and citations. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Structure of OSHA |
| Approx. Time: 15 minutes | Topic: Duties of OSHA Employers and Employees |

Objectives:

Upon completion of this module, the participant will be able to list the duties of both employers and employees under the OSHA.

Instructional Aids:

Handout stating duties - OH-1.

Instructional Approach:

Lecture

Discussion

References:

1. Ill. Inst. for CLE, "Occupational Safety and Health Act of 1970," Joseph A. Murphy.
2. Section 5 of OSHA.

Class Assignments:

Read handout OH-1.

| Module No: | Topic: Duties of OSHA Employers & Employees | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| 1. OH-1<br><br>Note: The means an employer may use to assure that employees will do their duty under OSHA is discussed under the sub-module "OSHA Standards." | | 1. Discuss the following duties of employers:<br>Furnish safe place of employment which is free from "recognized hazards."<br>Comply with OSHA standards.<br>Make investigations and records.<br><br>2. Discuss the following duties of employees:<br>Comply with OSHA laws. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Structure of OSHA |
| Approx. Time: 30 minutes | Topic: OSHA Legiclative Functions |

Objectives:

1. Standards.
   a. Participant will be able to define horizontal and vertical standards.
   b. Participant will be able to define emergency and permanent standards.
   c. Participant will be able to briefly explain the processes for promulgation, modification and revocation of standards.
2. Participant will be able to define temporary and permanent variances.

Instructional Aids:

Handout on how a rule or standard is created - OH-2.

Handout on types of standards and variances - OH-2.

Instructional Approach:

Lecture

Discussion

References:

1. ABC's of the Job Safety and Health Act
2. "Occupational Safety and Health Administration Impact on Small Business"
3. Ill. Inst. for CLE, "Promulgation of Standards and Rules," Fitzgerald and Wolff.
4. Sections 6 and 17 of OSHA.

Class Assignments:

Read handout OH-2.

| Module No: | Topic: OSHA Legislative Functions | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OH-2<br><br>Note: Point out green IOSH books contain all general standards. This book will be read and discussed later in the module.<br><br>Note: Emphasize the fact that any interested person may act to create, change or revoke a standard. | | 1. Discuss standards. Include the following:<br>a. Definition.<br>b. Horizontal standards - general standards for occupational safety and health that can apply to any industry, eg. standards for ladders.<br>Vertical standards - specific standards for specific industries.<br>c. Permanent standards.<br>Emergency standards.<br>Interim standards - used until 1973 to assure compliance.<br>d. How to promulgate, modify or revoke a standard.<br>1) The following may send information to the Secretary on standards:<br>Any interested person<br>Representative of organization of employers or employees<br>Nationally recognized standards-producing organization<br>Secretary of HEW<br>NIOSH<br>State or political subdivision<br>2) Secretary may request recommendations of advisory committee.<br>3) Secretary shall publish a proposed rule in the Federal Register; must give interested persons 30 days after publication to make written comments or objections, and |

| Module No: | Topic: OSHA Legislative Functions (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| | | request a public hearing; within the next 30 days must publish notice of hearing; then within 60 days Secretary issues the rule which promulgates, modifies or revokes a standard.<br>4) If Secretary wants an emergency standard, it will be effective immediately upon publication if the Secretary determines:<br>a) Employees are exposed to grave danger, and<br>b) Emergency standards are necessary for protection<br><br>2. Discuss variances, including the following:<br>a. Definition<br>b. Permanent variance - Must by preponderance of evidence show that the conditions, practices will be as safe as if the employer complied with the standard.<br>c. Temporary variance - If a good faith effort has been made to comply with a standard, but it is impossible because of conditions beyond the employer's reasonable control, he may request a time extension or temporary variance before he must comply with standard.<br>1) Maximum variance is 2 years. |

| Module No: | Topic: OSHA Legislative Functions (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| | | 2) Must show:<br>a) All steps have been taken to safeguard the employees, and<br>b) The employer has an effective program. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Structure of OSHA |
| Approx. Time: | Topic: Federal and State Relations |

Objectives:
1. Participant will be able to explain the responsibilities of a state under the Federal OSHA.
2. Participant will be able to explain the jurisdictions of the Federal and Iowa governments under the OSHA.

Instructional Aids:

Handout on Federal requirements for state under OSHA - OH-3.

Instructional Approach:

Lecture

Discussion

References:
1. ABA, "Jurisdictional Questions," Gunn.
2. Ill. Inst. for CLE, "Federal-State Relations," White.
3. Code of Iowa, 1977.
4. Iowa Administrative Code.
5. Sections 18 and 23 of OSHA.

Class Assignments:

Read handout OH-3.

| Module No: | Topic: Federal and State Relations | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| Note: Emphasize federal and state concurrent jurisdiction.<br><br>Note: If participants have not yet seen the Code of Iowa and the Iowa Administrative Code in any other module, it might be helpful to show them a volume and briefly explain how they work. The participants should know they will rarely use these books themselves, but should be aware of their existance. | | Discuss a state's role under OSHA. Include the following: State can make own occupational safety and health program under the OSHA. The Federal OSHA must approve the state plan and the Iowa plan, also known as the Iowa Occupational Safety and Health Act (IOSHA) has been approved The state plan can be stricter than the federal, but no standard can be less strict than a federal standard. If the federal OSHA does not have a standard in an area, the state can act freely.<br><br>State must continue to enforce OSHA after approval. State and federal government have concurrent jurisdiction.<br><br>OSHA gives the states grants to assist in administering and enforcing OSHA programs.<br><br>IOSHA can be found in Chapter 88 of the 1977 Code of Iowa. It is very similar to the OSHA.<br><br>The Occupational Safety and Health Review Commission can be found in the Iowa Administrative Code. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA standards |
| Approx. Time: 1¼ hour | Topic: Record-keeping |

Objectives:
1. Participant will be able to state when the OSHA record-keeping requirement is applicable.
2. Given appropriate information, participant will be able to prepare OSHA Forms 100, 101 and 103.

Instructional Aids:

Forms 100, 101 and 103

Instructional Approach:

Lecture
Discussion
Give hypothetical situation so participant can use Forms.

References:
1. "Occupational Safety and Health Administration Impact on Small Business."
2. Ill. Inst. for CLE, "Record-keeping," Rice & Tallon.
3. Section 8 of OSHA.

Class Assignments:

Be able to prepare Forms if hypothetical situation is given.

| Module No: | Topic: Record-keeping | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| Note: The OSHA will probably be changed so that small businesses do not need to comply with certain record-keeping requirements. Check current law.<br><br>Give each form to participants. Discuss in detail.<br><br>Give hypothetical situation so participant will know exactly how to fill out forms in case of an injury.<br><br>Note: The film "The Accident Bug" gives a good explanation of the record-keeping requirements. The film is slightly slanted towards the Dept. of Labor but is valuable in that the student will know what is required in the records to be kept. The film may be obtained through the Iowa Bureau of Labor, E. 7th & Court Ave., Des Moines, Iowa. | | 1. Discuss who is subject to the record-keeping requirements.<br><br>2. Discuss the following forms:<br>a. Form 100<br>Log of occupational injuries and illnesses. Enter injury or illness on form within six working days after occurrence.<br><br>b. Form 101<br>Supplemental record. Enter within six working days. Workman's compensation, insurance and other forms are acceptable as long as they have all required information.<br><br>c. Form 102<br>Annual summary. Post before Feb. 1 each year until March 1.<br><br>These forms must be kept at the work place. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA Standards |
| Approx. Time: | Topic: Inspections |

Objectives:

1. Participant will be able to list the priority the Secretary uses in making inspections.
2. The participant will be able to explain the procedures a Compliance Safety and Health Officer would use in conducting the following activities during an inspection:
   a. Pre-inspection--when, where and how inspection is to occur.
   b. Preliminary information given by officer to employer and employee.
   c. Walkaround.
   d. Officer's right to take samples, etc.
   e. Closing conference.

Instructional Aid:

Handout describing inspection procedure, OH-4.

Instructional Approach:

Lecture

Discussion

References:

1. ABA, "OSHA Inspections-Applicable Law Regarding Notice, Right to Accompany, Payments to Union Representatives, Post Inspection Meetings," Bobrick.
2. ABA, "OSHA Inspections," Dunphy.
3. ABC's of the Job Safety and Health Act.
4. Ill. Inst. for CLE, "Occupational Safety and Health Act of 1970," Murphy.
5. Ill. Inst. for CLE, "Enforcement," Gadonski & Levenhagen.
6. Sections 8 and 10 of OSHA.

Class Assignments:

Read handout OH-4.

| Module No: | Topic: Inspections | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OH-4 | | 1. Discuss the order of priority for inspections the area director uses.<br>a. Where there has been a catastrophe, multiple hospitalization or fatal accident.<br>b. Valid employee complaints: Employee can make a complaint against an employer and do so anonymously. The employee cannot be fired or discriminated against for making a complaint, instituting a proceeding, testifying, or exercising his rights.<br>c. Special emphasis programs:<br>1) Target industries, eg. meat packing, long-shoring.<br>2) Target health hazard, eg. lead, carbon monoxide.<br>d. Random selections.<br><br>2. Discuss the procedure a Compliance Safety & Health Officer uses when conducting an inspection:<br>a. The Officer must inspect "in a reasonable manner," the Officer must come during regular working hours.<br>1) If an employer refuses entry, the Officer can go to Court to get an order.<br>b. The Officer must present credentials and inform the employer of the reason for the visit, the scope of the inspection. The Officer must also give the |

| Module No: | Topic: Inspections (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| | | employer a copy of OSHA inspection laws and any employee complaint<br>c. Walkaround - Officer will walk around work place to inspect.<br>1) The employer and employee representative may accompany the Officer but may not obstruct him or her in any way.<br>d. During the inspection the Officer may take samples, make tests, photographs, etc.<br>e. Closing conference - The Officer will discuss what he or she has seen; explain any citation or penalty; discussion of appeal rights. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA standards |
| Approx. Time: 30 minutes | Topic: Inspections - From the Employer's Point of View |

Objectives:

The participant will be able to list some of the employer's rights in an inspection and will be able to explain some methods to protect his rights.

Instructional Aids:

Handout OH-4

Instructional Approach:

Lecture

Discussion

References:

1. OSHA Law, ABA.
2. OSHA, Ill. Inst. for CLE.

Class Assignments:

Read handout OH-4.

| Module No: | Topic: Inspections - From the Employer's Point of View | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OH-4 | | Discuss how the participant as an amployer or manager will handle an inspection and stress how crucial it is to act appropriately at this stage. Include the following:<br>1. THE INSPECTOR IS WORKING AGAINST YOU. It helps to be cooperative but he or she is not on your side.<br>2. The Inspector's right of entry must be exercised in a reasonable manner. (See Inspection Topic.) Insist on this. If entry is refused by the employer, the Inspector can get a court order. Whether entry should be refused is a management question, but you may run the risk of irritating the Inspector.<br>3. Get positive identification of the Inspector and write down his or her name his or her supervisor, phone number and address.<br>4. Give as little information to the inspector as possible. The inspector is trying to build a case against you. Do not give any self-incriminatory statements or admissions such as, "We have a little problem here."<br>5. Keep a record of your conversation with the inspector and what employees |

| Module No: | Topic: Inspections - From the Employer's Point of View (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| | | talked to the inspector. Have those employees write a memorandum of their conversation as soon as possible. You must allow the inspector to talk with an employee in private.<br><br>6. Do accompany the inspector on the walkaround. If you are not present, the inspector will proceed without you. Do not obstruct the inspector in the investigation, but, again, do not volunteer any information. Make notes of what the inspector observed and any comments made.<br><br>7. The closing conference can sometimes be delayed for a day or longer. You have the right to obtain legal counsel during the delay. At the closing conference, you may explain to the inspector what he or she may not know. But be careful. |

| Module No: | Module Title: – Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA standards |
| Approx. Time: 15 minutes | Topic: Other Inspection Requirements |

Objectives:

1. Participant will be able to define and explain the purpose of monitoring requirements.
2. Participant will be able to explain the notice-posting requirement.
3. The particpant will be able to describe the Secretary's right to get an injunction in cases of imminent danger.

Instructional Aids:

Handout on monitoring, notice-posting and injunctions - OH-5.

Instructional Approach:

Lecture

Discussion

References:

1. The Job Safety and Health Act of 1970.
2. Section 13 of OSHA.

Class Assignments:

Read handout OH-5.

| Module No: | Topic: Other Inspection Requirements | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OH-5 | | Discuss monitoring requirements.<br>Employees must be given the opportunity to observe monitoring or measuring of potentially toxic materials or harmful physical agents to determine whether the OSHA standards are met and whether the employees' exposure to a harm was real or potential.<br><br>Discuss notice-posting requirements.<br>Employer must post a notice to inform employees of employer's "protections and obligations" under the law. If employer has violated a standard, the employer must post a notice of the violation at the place of the violation for three days or until abatement, whichever is longer.<br><br>Discuss injunction.<br>If, during the inspection, the Officer finds a situation where there is imminent danger to the employees, the Secretary may obtain an injunction from a court to close down the work place until the danger has been corrected. |

| Module No: – | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA standards |
| Approx. Time: 30 minutes | Topic: Violations, Citations & Penalties |

Objectives:

The participant will be able to:

1. List and explain the types of violations.
2. Define a citation, explain when it is given and the requirements for giving a citation.
3. List some of the various penalties.
4. Analyze factors to be considered when Secretary determines amount of penalty.

Instructional Aids:

Handout on violations, citations and penalties - OH-6.

Instructional Approach:

Lecture

Discussion

References:

1. ABC's of the Job Safety and Health Act.
2. Occupational Safety and Health Administration Impact on Small Business.
3. Sections 9, 10 and 17 of OSHA.

Class Assignments:

Read handout OH-6.

| Module No: | Topic: Violations, Citations & Penalties | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OH-6 | | 1. Discuss violations.<br>a. De minimums - no direct or immediate relationship to safety and health.<br>b. Non-serious - direct relationship to safety and health, but no death or serious harm. Also used if employer, through reasonable diligence, could not or did not discover danger.<br>c. Serious - if substantial probability that death or physical harm could result from the existing conditions or from practices used.<br>d. Imminent danger - immediate legal action is taken by OSHA if no action by employer. Conditions or practices are such that danger exists that could reasonably be expected to cause death or serious physical harm immediately or before imminence of danger can be eliminated.<br><br>2. Discuss citations.<br>A citation is a written statement of the nature of a violation which fixes a time for abatement. It must be given within six months of the violation "with reasonable promptness" and "with particularity." |

| Module No: | Topic: Violations, Citations & Penalties (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| Note: Participant should not have to memorize these penalties, but should be aware of them. | | 3. Discuss some penalties.<br>a. Optional penalty up to $1000 for non-serious violation.<br>b. $100 mandatory penalty for each serious violation.<br>c. Descretionary penalty up to $10,000 for each violation for willfully or repeatedly violating standards.<br>d. Up to $1000 per day for failure to correct a violation within the abatement period.<br>e. Not more than $10,000 and/or six months in prison for willful violation that causes death to an employee.<br>f. Not more than $10,000 and/or six months for knowingly making a false representation.<br>g. $20,000 and/or one year for subsequent willful violation that causes death.<br><br>4. Discuss the following factors considered when determining the amount of penalty.<br>a. Probablity of injury or illness.<br>b. Severity of injury or disease likely to occur.<br>c. Extent to which the act was violated. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: Enforcement of OSHA standards |
| Approx. Time: 30 minutes | Topic: Right to Review and Appeal |

Objectives:

Upon completion of this module, a participant will be able to state the steps an employer or employee must take if he wishes to appeal a citation, penalty or decision.

Instructional Aids:

Handout describing appeal process - OH-6.

Transparency showing appeal process - OT-2.

Instructional Approach:

Lecture

Discussion

References:

1. Occupational Safety and Health Act, "Review by the Commission and the Courts," Fellner & Samuelson.
2. "Occupational Safety and Health Administration Impact on Small Business."
3. The Job Safety and Health Act of 1970.

Class Assignments:

Read handout OH-6.

4. Ill. Inst. for CLE, "Review," Cloussen, Hawkins, Rosenbloom and Secaras.
5. Iowa Administrative Code.
6. Sections 11 and 12 of OSHA.

| Module No: | Topic: Right to Review and Appeal | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| OT-2<br><br>OH-6<br><br>Find out who is the closest administrative law judge in your area.<br><br>Explain briefly the jurisdiction of the Court of Appeals in areas outside of OSHA. | | Discuss appeal process.<br>1. "Informal conference" with area director within 15 days of receipt of notice of penalty. If no appeal, citation is final.<br>2. Hearing before administrative law judge. Must file within 15 days of receipt of notice of penalty. He or she will issue findings of fact, conclusions of law, or will affirm, modify or vacate the citation and/or penalty.<br>3. OSHA Review Commission. An appeal from the administrative law judge to the OSHA Review Commission can be made within 30 days of the judge's decision. The Commission acts in a judicial capacity in adversary proceedings. Although part of OSHA and the Department of Labor, the judges are independent and may not communicate about a case to other members in the Department. These decisions become final unless appealed filed in 30 days.<br>4. U.S. Court of Appeals. Does not retry a case. It will support Commission's findings of fact if supported by substantial evidence. |

| Module No: | Topic: Right to Review and Appeal (con't.) | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| | | 5. U.S. Supreme Court<br><br>Employees as well as employers have the right to contest a citation or penalty.<br><br>Discuss the doctrine of exhaustion of administrative remedies. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: OSHA Standards |
| Approx. Time: 1 hour | Topic: Use of the OSHA Manual |

Objectives:

1. Upon completion of this module the participant will be able to identify the general areas of approach.
2. The participant will be able to locate the standards applicable to a particular condition, area, procedure, material or equipment in the Manual.

Instructional Aids:

IOSH

Instructional Approach:

Lecture
Discussion
Hypothetical questions

References:

1. Occupational Safety and Health Standards for Water Utilities
2. How to Make the OSHA - 1970 Work for You
3. Code of Federal Regulations
4. Iowa Occupational Safety and Health Standards for General Industry (IOSH)

Class Assignments:

Bring IOSH to class.

| Module No: | Topic: Use of the OSHA Manual | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| IOSH<br><br>Have students follow along in table of contents as instructor discusses generally the areas most pertinent to waste water and water treatment plants. | | 1. Discuss the following areas into which the OSHA standards for general industry have been divided:<br>a. Walking and working surfaces. Includes guarding floor and well openings and holes, ladders, etc.<br>b. Means of egress.<br>c. Powered platforms, Manlifts, and Vehicle-Mounted Work Platforms.<br>d. Occupational Health and Environmental Control.<br>e. Hazardous Materials.<br>f. Personal Protective Equipment. Includes eye and face gear, etc.<br>g. General Environmental Controls<br>h. Medical and First Aid<br>i. Fire Protection<br>j. Compressed Gas & Compressed Air Equipment<br>k. Materials Handling & Storage<br>1. Machinery & Machine Guarding<br>m. Hand and Portable Powered Tools<br>n. Welding, Cutting & Brazing<br>o. Special Industries |
| Give hypothetical questions and require participants to answer using IOSH book. | | 2. Show participants how to use the Manual. Include Table of Contents and Index Note that the numbers of the sections are the same under the IOSHA as under the the OSHA. |

| Module No: | Module Title: Occupational Safety and Health Act |
|---|---|
| | Submodule Title: OSHA Standards |
| Approx. Time: 30 minutes to 1 hour | Topic: Application of OSHA Standards |

Objectives:

Upon completion of this module, the participant will be able to apply the OSHA requirements to a wastewater or water treatment plant and include the following:

a. Participant will be prepared to handle an inspection by making use of fire department and insurance company inspections.
b. Participant will be able to answer all the OSHA related questions or appoint and teach a person how to be an OSHA supervisor.
c. Participant will be able to give lectures or arrange lectures on safety for the employees.

Instructional Approach:

Lecture

Discussion

References:

Class Assignments:

| Module No: | Topic: Application of OSHA Standards | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| Consider asking a representative from the fire department or insurance company to speak to the class about these inspections which can be made before an OSHA Officer comes around.<br><br>Refer to modules on Management and Public Relations. | | 1. Dicuss the possibility of having the City Fire Department make an inspection of all fire protection equipment. There should be no cost for this service.<br><br>2. Discuss the possibility of having the plant's insurance company make an inspec tion to assure compliance. The insurance company is on the plant's side and can be helpful.<br><br>3. Discuss the importance of designating one person to be responsible for all OSHA related activities, including OSHA instruction to the other employees. In large cities, that one person may be in the plant itself. In small cities, one person may be responsible for OSHA in all municipal activities<br><br>Discuss how that one person will enforce the OSHA standards within a plant. |

| Module No: — | Module Title: Occupational Safety & Health Act of 1970 |
|---|---|
| | Submodule Title: OSHA Standards |
| Approx. Time: | Topic: Study of a Standard--Ventilation |

Objectives:

Upon completion of this module, the participant will be able to use the OSHA handbook and read any given standards.

Instructional Aids:

IOSH--Iowa Occupational Safety and Health Standards for General Industry.

Instructional Approach:

Lecture

Discussion

References:

IOSH

Class Assignments:

Read 1910.94(d) of IOSH.

| Module No: | Topic: Study of a Standard--Ventilation | |
|---|---|---|
| Instructor Notes: | | Instructor Outline: |
| The purpose of this topic is to expose the participant to the reading, analyzing and use of OSHA standards. This shall be done by the study of one standard thoroughly. The standard selected is the ventilation standard as applied to open surface tanks as stated in IOSH Section 1910.94(d). The instructor has the option to choose a different standard for analysis.<br><br>The ventilation standard is found at Section 1910.94(d) of IOSH. Each participant should have a copy of IOSH and should follow along with the discussion of the ventilation standard. The instructor should read through the standard with the class, emphasizing the sections most relevant to waste water and water treatment plants. Refer to the graphs in IOSH for further clarity. As the working of many of the standards is difficult to understand, the instructor should make the analysis slowly and carefully.<br><br>The time t be spent studying this ventilation standard will be left to the discretion of the instructor. However, the instructor should be assured each participant is capable of understanding a given standard at a level at which the participant would be able to give OSHA advice to the management and workers in a waste water or water treatment plant. | | See Section 1910.94(d) of IOSH. |

## Exam Questions

OSHA

1. Define horizontal and vertical standards.

2. Explain the purpose of each of OSHA Forms 100, 101 and 103 and state some of the information required on each.

3. Explain the rights and duties of an OSHA inspector when performing the following activities:

   a. Initiation of the inspection.
   b. Walkaround.
   c. Closing conference.

4. Explain the rights and duties of a plant operator when the following aspects of an inspection occur:

   a. Initiation of the inspection.
   b. Walkaround.
   c. Closing conference.

5. List and explain the four types of violations of a standard.

# DUTIES OF THE GROUPS THAT ADMINISTER THE OCCUPATIONAL SAFETY AND HEALTH ACT

1. Secretary of Labor in the Department of Labor.
   Promulgates, modifies and revokes standards.
   Decides variances.
   Inspects.
   Investigates.
   Enforces the Occupational Safety and Health Act.
   Issues citations.

2. National Advisory Committee on Occupational Safety and Health.
   Advise, consult and make recommendations to the Secretary of Labor and Secretary of Health, Education and Welfare.

3. Secretary of Health, Education and Welfare and the National Institute for Occupational Safety and Health (NIOSH).
   Collects records of death, injuries and illnesses.
   Compile, analyze and publish information from records.
   Conduct research and experiments.
   Conduct educational programs.
   Develop and establish recommended occupational safety and health standards.

4. Regional Directors; Area Directors; and Compliance Safety and Health Officers and Industrial Hygenists.
   Enforce OSHA by inspections, tests, investigations and citations.

## DUTIES OF EMPLOYERS:

1. Furnish a safe place of employment free from "recognized hazards."
2. Comply with OSHA standards.
3. Make investigations and records.

## DUTIES OF EMPLOYEES:

1. Comply with OSHA laws.

## STANDARDS

An OSHA standard is a requirement of conditions, or adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe and healthful employment and place of employment.

A horizontal standard is a general standard that can apply to any industry. A vertical standard is a specific standard for a specific industry.

A standard is either promulgated as a permanent standard or becomes permanent some time after promulgation. A promulgated standard which is not yet permanent is an emergency standard and is used only where the Secretary of Labor considers it necessary.

## VARIANCES

A variance is a departure from a law, rule, regulation or standard but not from the spirit of the law, rule, regulation of standard.

A temporary variance is given to an employer if he has made a good faith effort to comply with a standard, but it is impossible because of conditions beyond the employer's reasonable control. The employer must still comply with the standard within the time set by the Secretary of Labor.

A permanent variance is given to an employer if he can show that his conditions or practices are as safe as the standard.

Not only is there an occupational safety and health act on the federal level, but also there is such an act on the state level. In this state, it is called the Iowa Occupational Safety and Health Act (IOSHA). It performs substantially the same functions as the federal act and has similar standards. The Federal government decided that the states should control the occupational safety and health field with guidance from the federal government. The Federal OSHA provides that the states may make their own plans, subject to approval by the Federal OSHA. An employer will then be subject to the jurisdiction of both the federal and state governments. The Federal government has also provided financial incentives in the way of grants to encourage the states to act.

IOSHA has been approved by the Federal government and can be found in the 1977 Code of Iowa in Chapter 88. The provisions for the Occupational Safety and Health Review Commission can be found in the Iowa Administrative Code.

## INSPECTIONS

The OSHA provides for inspections of businesses to determine if they conform to the regulations. As not all businesses can be inspected, the area directors use the following list of priorities for making inspections:

1. Where there has been a catastrophe, multiple hospitalization or fatal accident.
2. Valid employee complaints.
3. Special emphasis programs.
   a. Target industries.
   b. Target health hazards.
4. Random selections.

Then a Compliance Safety and Health Officer makes an inspection, he or she uses the following procedure:

1. Inspection in a "reasonable manner."
2. Giving of information concerning inspection to employer.
3. Walkaround.
4. Taking samples.
5. Closing conference.

## WHAT YOU SHOULD DO WHEN THE INSPECTOR COMES

1. THE INSPECTOR IS WORKING AGAINST YOU. Be cooperative but remember the inspector is not on your side.

2. Insist that the inspector make a reasonalbe entry. Consider the possibility of refusing entry.

3. Write down the name of the inspector, the supervisor, phone number and address.

4. Do not make any self-incriminating statements or admissions to the inspector.

5. Keep records of who talked with the inspector and the substance of those conversations.

6. Do accompany the inspector on the walk-around.

7. Prepare for the closing conference.

## MONITORING

Employees have the right to monitor toxic agents to determine whether their exposure to harm is real or potential.

## NOTICE-POSTING REQUIREMENTS

Employers must post a notice stating the employer's "protections and obligations" under the law.

In case of violation of a standard, there must be posted a notice of the violation.

## INJUNCTION

An injunction is a legal way to stop some activity by order of court. The Secretary of Labor may obtain an injunction to close down a work place if there is imminent danger to the employees.

## VIOLATION OF A STANDARD

1. De minimum violation--no direct or immediate relationship to safety and health.
2. Non-serious violation--direct relationship to safety and health, but no death or serious harm to employees.
3. Serious violation--substantail probability that death or physical harm coud result from the exesting conditions or practices used.
4. Imminent danger--when conditions or practices are such that danger exists that could reasonably to expected to cause death or serious physical harm immediately or before imminence of of danger can be eliminated.

## CITATION

A citation is a written statement of the violation the employer committed. It also fixes a time in which the violation must be cured.

## PENALTIES

Penalties may be given for the violation of a standard. Some are discretionary such as the penalty up to $1000 for a non-serious violation. Some are mandatory such as the $1000 penalty for each serious violation.

The "Occupational Safety and Health Administration Impact on Small Business" published by the Department of Labor, OSHA, in July 1976, published the following chart which gives some guidelines as to how penalties are assessed:

| Severity of Violation | Initial Penalty Amount |
|---|---|
| Low | $0 |
| Moderate | $100-199 |
| High | $200-500 |
| Blatant disregard | $500-1000 |

## APPEAL FROM A CITATION OR PENALTY

1. Employer or employee may have an informal conference with the area director.

2. Employer or employee may have a hearing before the administrative law judge who will issue findings of fact; conclusions of law; and will affirm, modify or vacate the citation and/or penalty.

3. Employer or employee may appeal to the OSHA Review Commission.

4. Employer or employee may appeal to the U.S. Court of Appeals.

5. Employer or employee may appeal to the U.S. Supreme Court.

One who is making an appeal must use steps available within the agency before using the courts.

OSHA NO. 100

# LOG OF OCCUPATIONAL IN

| Case or file no. | Date of injury or initial diagnosis of illness. If diagnosis of illness was made after first day of absence enter first day of absence. (mo./day/yr.) | Employee's Name (First name, middle initial, last name) | Occupation of injured employee at time of injury or illness | Department to which employee was assigned at time of injury or illness | DESCRIPTION Nature of injury or ill body aff (Typical entries for thi Amputation of 1st jo Strain of lower back Contact dermatitis on Electrocution—bod |
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Company Name ----------

Establishment Name ----------

Establishment Location ----------

Injury Code
10 All occupational injuries

## NAL INJURIES AND ILLNESSES

Form Approved
OMB NUMBER 44R 1453

| RIPTION OF INJURY OR ILLNESS | | EXTENT OF AND OUTCOME OF INJURY OR ILLNESS | | | | | |
|---|---|---|---|---|---|---|---|
| njury or illness and part(s) of body affected<br>ries for this column might be: on of 1st joint right forefinger lower back ermatitis on both hands tion—body | Injury or illness code<br>*See codes at bottom of page.* | Fatalities | Lost Workday Cases | | Nonfatal Cases Without Lost Workdays | | |
| | | Enter date of death (mo./day/yr.) | Enter workdays lost due to injury or illness (*see instructions on back.*) | If, *after* lost workdays, the employee was permanently transferred to another job or was terminated, enter a check in the column below | If no entry was made in columns 8 or 9, but the injury or illness did result in: Transfer to another job or termination, or; medical treatment, other than first aid, or; diagnosis of occupational illness, or; loss of consciousness, or; restriction of work or motion; Enter a check in the column below | If a check in column 11. represented a transfer or termination, enter another check in column 12 | |
| | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
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**Illness Codes**

21 Occupational skin diseases or disorders
22 Dust diseases of the lungs (pneumoconioses)
23 Respiratory conditions due to toxic agents
24 Poisoning (Systemic effects of toxic materials)
25 Disorders due to physical agents (other than toxic materials)
26 Disorders due to repeated trauma
29 All other occupational illnesses

OSHA No. 101
Case or File No. _____

Form approved
OMB No. 44R 1453

## Supplementary Record of Occupational Injuries and Illnesses

EMPLOYER

1. Name _____
2. Mail address _____
(No. and street) (City or town) (State)
3. Location, if different from mail address _____

INJURED OR ILL EMPLOYEE

4. Name _____ Social Security No. _____
(First name) (Middle name) (Last name)
5. Home address _____
(No. and street) (City or town) (State)
6. Age _____ 7. Sex: Male_____ Female_____ (Check one)
8. Occupation _____
(Enter regular job title, *not* the specific activity he was performing at time of injury.)
9. Department _____
(Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)

THE ACCIDENT OR EXPOSURE TO OCCUPATIONAL ILLNESS

10. Place of accident or exposure _____
(No. and street) (City or town) (State)

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

11. Was place of accident or exposure on employer's premises? _____ (Yes or No)
12. What was the employee doing when injured? _____
(Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)
13. How did the accident occur? _____
(Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)

OCCUPATIONAL INJURY OR OCCUPATIONAL ILLNESS

14. Describe the injury or illness in detail and indicate the part of body affected. _____
(e.g.: amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)
15. Name the object or substance which directly injured the employee. (For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)
16. Date of injury or initial diagnosis of occupational illness _____
(Date)
17. Did employee die? _____ (Yes or No)

OTHER

18. Name and address of physician _____
19. If hospitalized, name and address of hospital _____

Date of report _____ Prepared by _____
Official position _____

OSHA No. 102

Form Approved
OMB No. 44R 1453

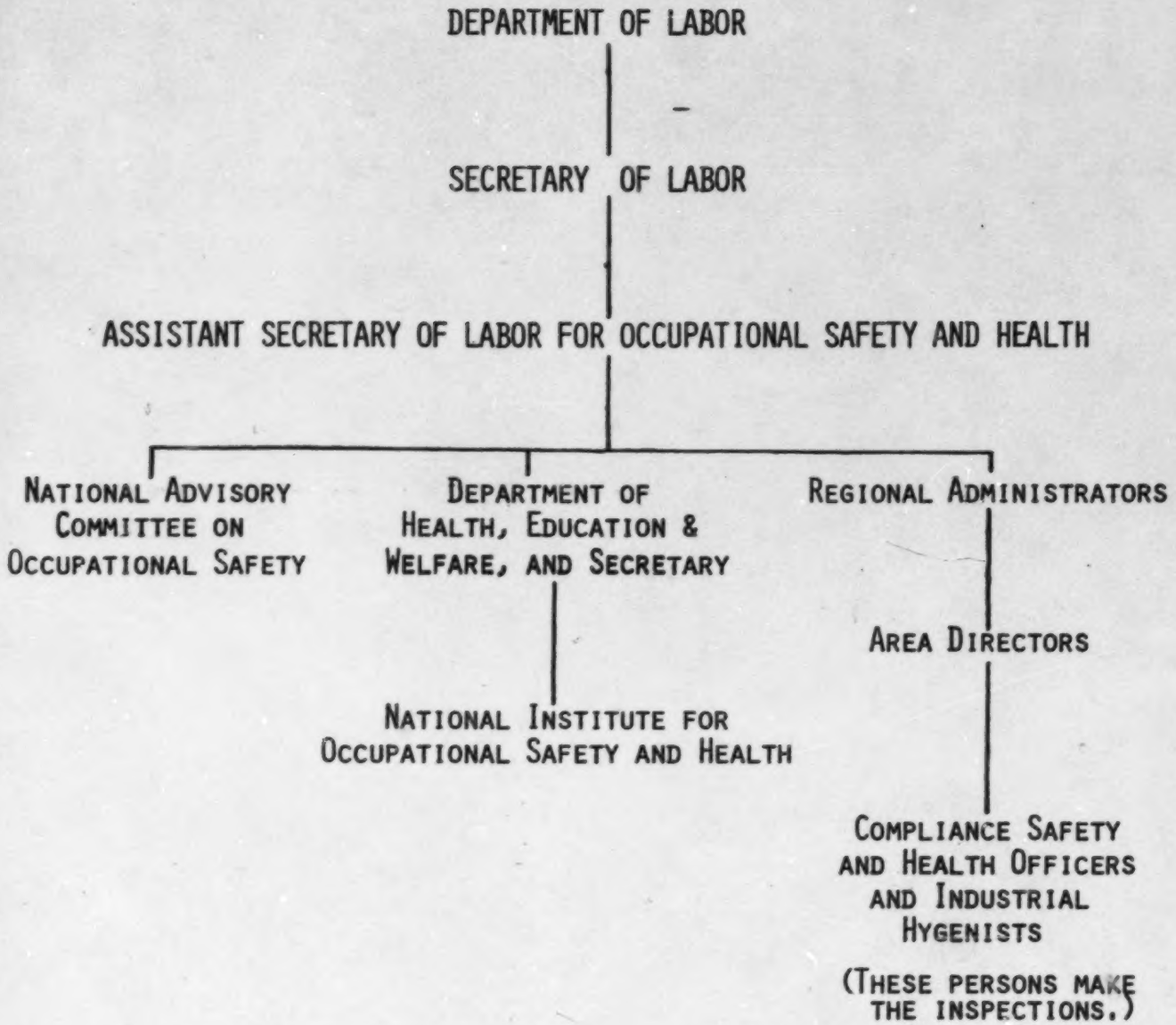
## Summary

## Occupational Injuries and Illnesses

Establishment Name and Address:

| Injury and Illness Category | | Fatalities | Lost Workday Cases | | | Nonfatal Cases Without Lost Workdays* | |
|---|---|---|---|---|---|---|---|
| | | | Number of Cases | Number of Cases Involving Permanent Transfer to Another Job or Termination of Employment | Number of Lost Workdays | Number of Cases | Number of Cases Involving Transfer to Another Job or Termination of Employment |
| Code 1 | Category 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 10 | Occupational Injuries | | | | | | |
| | *Occupational Illnesses* | | | | | | |
| 21 | Occupational Skin Diseases or Disorders | | | | | | |
| 22 | Dust diseases of the lungs (pneumoconioses) | | | | | | |
| 23 | Respiratory conditions due to toxic agents | | | | | | |
| 24 | Poisoning (systemic effects of toxic materials) | | | | | | |
| 25 | Disorders due to physical agents (other than toxic materials) | | | | | | |
| 26 | Disorders due to repeated trauma | | | | | | |
| 29 | All other occupational illnesses | | | | | | |
| | Total—occupational illnesses (21-29) | | | | | | |
| | Total—occupational injuries and illnesses | | | | | | |

*Nonfatal Cases Without Lost Workdays—Cases resulting in: Medical treatment beyond first aid, diagnosis of occupational illness, loss of consciousness, restriction of work or motion, or transfer to another job (without lost workdays).


DEPARTMENT OF LABOR
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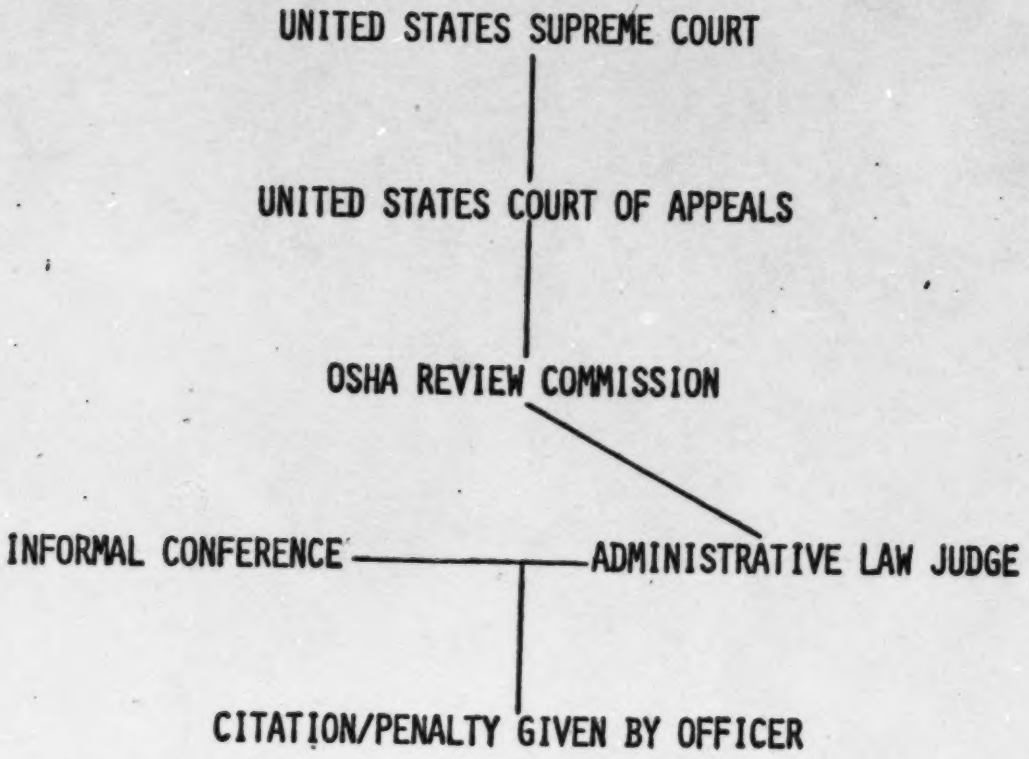
ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH
NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY
DEPARTMENT OF HEALTH, EDUCATION & WELFARE, AND SECRETARY
REGIONAL ADMINISTRATORS
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH
AREA DIRECTORS
COMPLIANCE SAFETY AND HEALTH OFFICERS AND INDUSTRIAL HYGENISTS
(THESE PERSONS MAKE THE INSPECTIONS.)


UNITED STATES SUPREME COURT
UNITED STATES COURT OF APPEALS
OSHA REVIEW COMMISSION
INFORMAL CONFERENCE
ADMINISTRATIVE LAW JUDGE
CITATION/PENALTY GIVEN BY OFFICER